

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

In re: Equifax Inc. Customer
Data Security Breach Litigation

MDL Docket No. 2800
No. 1:17-md-2800-TWT

This document relates to:
CONSUMER ACTIONS
Ward, et al. v. Equifax, Inc., et al.,
No. 1:17-cv-03246
(transferred from D. Md.)

Chief Judge Thomas W. Thrash, Jr.

**CONSUMER LEAD COUNSEL’S OPPOSITION TO
WARD PLAINTIFFS’ MOTION TO REMAND**

Consumer Lead Counsel, on behalf of the named plaintiffs and putative classes represented in the consolidated consumer complaint, oppose the Motion to Remand filed by Plaintiffs Craig Ward, Mary and Todd Warren, and Teri Weatherly (collectively, the “*Ward* Plaintiffs”) (Doc. 459). The Court should deny the motion out of hand or, alternatively, deny the motion as premature until after a ruling on the pending motion to dismiss the consumer claims.

The *Ward* Plaintiffs erroneously contend that because they—and by extension other consumer plaintiffs—lack Article III standing in federal court, their case must be immediately remanded. As set forth in various decisions cited in Consumer Plaintiffs’ oppositions to Equifax’s motions to dismiss, and emphasized

earlier this month by the Eleventh Circuit, the requirements of constitutional standing are readily satisfied here. *See* Doc. 452 at 19-25; Doc. 467 at 7-16, 30-33; Doc. 483 at 1-2; *Muransky v. Godiva Chocolatier, Inc.*, Nos. 16-16486 & 16-16783, 2018 WL 4762434 (11th Cir. Oct. 3, 2018).

Standing is alleged in the main consumer consolidated complaint and was not directly challenged by Equifax. *See generally* Doc. 425. That consolidated complaint presents to this Court the very class claims asserted in *Ward*, and scores of other MDL member cases. *See, e.g.*, Doc. 374 at ¶¶ 54-55 (Maryland representative plaintiffs), 296-97 (identifying a Maryland class asserting various common law and statutory claims), 806-40 (pleading the same (and additional) Maryland statutory claims as in *Ward*)).

The authority cited in support of remand illustrates why the motion is, at best, premature. In *Khan v. Children's Nat'l Health Sys.*, 188 F. Supp. 3d 524 (D. Md. 2016), the district court determined that the plaintiffs lacked Article III standing *after adversarial briefing of a motion to dismiss* under Rule 12(b)(6). The court then correctly denied the defendant's request for a dismissal rather than a remand, because the case had originally been filed in state court. *Id.* at 534-35. Under the *Ward* Plaintiffs' own theory, their case could be remanded if, and only if, this Court made a dispositive ruling on standing. But that issue has not been

submitted to the Court for determination, and could not be made based on the *Ward* Plaintiffs' cursory motion. The Court should deny the motion to remand.

Dated: October 22, 2018

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was filed with this Court via its CM/ECF service, which will send notification of such filing to all counsel of record this 22nd day of October, 2018.

/s/ Norman E. Siegel